

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

MARC VEASEY, <i>et al.</i> ,	§	
	§	
Plaintiffs,	§	
VS.	§	CIVIL ACTION NO. 2:13-CV-00193
	§	
GREG ABBOTT, <i>et al.</i> ,	§	
	§	
Defendants.	§	

**CONSENT MOTION FOR ENTRY OF TEMPORARY REMEDIAL ORDER**

The Texas Secretary of State's office has learned that the Warren Independent School District in Tyler County, Texas, will conduct a tax ratification election on August 16, 2016, with early voting to begin on August 1, 2016. The parties continue to meet and confer about interim remedial relief for elections on November 8, 2016, and they respectfully move the Court to enter a temporary interim remedy for the Warren ISD tax ratification election. In support of this motion, the parties would show the following:

1. On July 20, 2016, the United States Court of Appeals for the Fifth Circuit affirmed this Court's finding that SB 14 results in a discriminatory effect under Section 2 of the Voting Rights Act. *Veasey v. Abbott*, No. 14-41127 (5th Cir. July 20, 2016) (en banc), slip op. 85. In its opinion, the Fifth Circuit explained:

On remand, the district court should refer to the policies underlying SB 14 in fashioning a remedy. We acknowledge that the record establishes that the vast majority of eligible voters possess SB 14 ID, and we do not disturb SB 14's effect on those voters—those who have SB 14 ID must show it to vote. The remedy must be tailored to rectify only the

discriminatory effects on those voters who do not have SB 14 ID or are unable to reasonably obtain such identification.

*Id.* at 83. The Fifth Circuit remanded to this Court for consideration of an appropriate remedy, with instructions to “ensure that any remedy enacted ameliorates SB 14’s discriminatory effect, while respecting the Legislature’s stated objective to safeguard the integrity of elections by requiring more secure forms of voter identification.” *Id.*

2. On July 21, 2016, consistent with the Fifth Circuit’s instructions, this Court entered an order (ECF No. 859) directing the parties to meet and confer and to submit proposed remedial plans including specific terms responsive to the Fifth Circuit’s opinion. The Court’s order set a hearing on August 17, 2016, to resolve any remaining differences between the parties regarding interim relief.

3. On July 22, 2016, the parties initiated the meet-and-confer process by conducting a conference call attended by counsel for the Plaintiffs, the United States, and the Defendants.

4. On July 23, 2016, the parties filed a Consent Motion for Entry of Temporary Remedial Order (ECF No. 861) to secure temporary interim relief limited to a special runoff election in Texas House District 120 on August 2, 2016, with early voting scheduled to begin on July 25, 2016. The Court granted the motion and ordered temporary interim relief for the special runoff election in House District 120 (ECF No. 862).

5. On July 26, 2016, the parties filed a Joint Motion to Expedite the Interim Remedy Schedule (ECF No. 868), requesting that the Court modify its previous order to require the parties to submit proposed plans for interim relief and supporting

briefing by August 2, 2016, and to submit responses to proposed plans for interim relief on August 5, 2016. In its order granting the motion (ECF No. 869), the Court ordered the parties to file a joint plan including all agreed-upon terms and respective plans regarding all disputed terms, together with supporting briefs, by August 2, 2016; to file responses on August 5, 2016; and to appear for a hearing on August 10, 2016.

6. The parties have continued to meet and confer regarding proposed interim relief, communicating daily by telephone and/or e-mail.

7. On July 27, 2016, the Secretary of State's office learned that Warren Independent School District in Tyler County, Texas, would conduct a tax ratification election on August 16, 2016, with early voting scheduled to begin on August 1, 2016.

8. The Texas Secretary of State's office represents that it would be feasible, on court order, to implement a reasonable-impediment exception for the Warren ISD tax ratification election in time for the start of early voting on August 1, 2016.

9. Under the proposed reasonable-impediment exception, if a voter appears on the official list of registered voters but does not possess an acceptable form of photo ID due to a reasonable impediment, the following steps shall be taken by the election officer to allow the voter to cast a provisional ballot:

- Provide the Reasonable Impediment Affidavit form, attached as Exhibit A, or a Spanish language translation thereof, to the voter, and ask the voter to provide one of the following forms of identification:
  - a. A valid voter registration certificate, or
  - b. A current utility bill, bank statement, government check, paycheck, or other government document that shows the name of the voter.

- If the voter does not have one of the above forms of identification, they must provide their date of birth and the last four digits of their social security number in the space provided on the Reasonable Impediment Affidavit form.
- Ask the voter to complete this form by entering their name and, where applicable, date of birth, and last four digits of their social security number, and then ask them to review the “Voter’s Affidavit of Reasonable Impediment,” indicate their impediment, and sign their name.
- Ask the voter to return the completed form to the election judge. The election judge should indicate at the bottom of the form what type of identification the voter provided. The election judge should enter the date and sign in the space provided.
- Provide the “Affidavit of Provisional Voter” envelope to the voter, and ask them to complete the voter portion on the front side of the envelope.
- Ask the voter to return the completed envelope, and on the reverse side, the election judge shall complete their portion. The election judge should mark “Other” and indicate that the voter is casting a provisional ballot due to a reasonable impediment. The election judge should enter the date and sign in the space provided.
- Staple the Reasonable Impediment Affidavit form to the “Affidavit of Provisional Voter” envelope, and the voter shall proceed to cast a provisional ballot.

6. The State represents that because early voting for the Warren ISD tax ratification election begins on Monday, August 1, 2016, it is not possible for election officials to establish a mechanism for this election whereby third-party challenges to provisional ballots cast with a Reasonable Impediment Affidavit can be processed. Given this representation, and without prejudice to the parties’ position regarding other upcoming elections, Plaintiffs and Defendants agree to this process for this election **only**.

7. Upon confirmation that the “Affidavit of Provisional Voter” envelope is complete and that the Reasonable Impediment Affidavit is attached, the provisional ballot shall be counted by the provisional balloting board unless there is conclusive evidence that the affiant is not the person in whose name the ballot is cast.

8. On court order, the Secretary of State will provide the Reasonable Impediment Affidavit form to the Warren Independent School District and Tyler County Election Department for distribution to election officials.

9. In agreeing to this motion, the parties expressly reserve all of their rights to seek or oppose future orders of relief. The parties have agreed to this order on short notice only to ensure relief for this imminent election but do not agree that this relief is appropriate for future elections. The parties do not waive any arguments or forfeit their right to appellate review. The parties will continue to meet and confer, pursuant to the Court's order, regarding an interim remedy for the elections to be held on November 8, 2016.

#### **PRAYER FOR RELIEF**

For the foregoing reasons, the parties respectfully move the Court to order that the attached Reasonable Impediment Affidavit be available at early voting locations and polling places to accommodate voters who cannot reasonably obtain an SB 14-compliant ID in time to vote in the Warren ISD tax ratification election.

Date: July 29, 2016

Respectfully submitted.

KEN PAXTON  
Attorney General of Texas

JEFFREY C. MATEER  
First Assistant  
Attorney General

JAMES E. DAVIS  
Deputy Attorney General  
for Litigation

/s/ Angela V. Colmenero  
ANGELA V. COLMENERO  
Chief, General Litigation Division

MATTHEW H. FREDERICK  
Deputy Solicitor General

OFFICE OF THE ATTORNEY GENERAL  
P.O. Box 12548 (MC 059)  
Austin, Texas 78711-2548  
Tel.: (512) 936-6407  
Fax: (512) 474-2697

*Counsel for Defendants*

VANITA GUPTA  
Principal Deputy Assistant Attorney General  
Civil Rights Division

/s/ Daniel J. Freeman  
T. CHRISTIAN HERREN, JR.  
MEREDITH BELL-PLATTS  
RICHARD DELLHEIM  
BRUCE I. GEAR  
DANIEL J. FREEMAN  
AVNER SHAPIRO  
SAMUEL OLIKER-FRIEDLAND

Attorneys, Voting Section  
Civil Rights Division  
U.S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N.W.  
Room 7123 NWB  
Washington, D.C. 20530  
(202) 305-4355

*Counsel for the United States*

/s/ J. Gerald Hebert  
J. GERALD HEBERT  
CAMPAIGN LEGAL CENTER  
1411 K Street NW Suite 1400  
Washington, DC 20005  
(202) 736-2200  
ghebert@campaignlegalcenter.org

CHAD W. DUNN  
K. SCOTT BRAZIL  
BRAZIL & DUNN  
4201 Cypress Creek Pkwy., Suite 530  
Houston, Texas 77068  
(281) 580-6310  
chad@brazildunn.com

ARMAND G. DERFNER  
DERFNER & ALTMAN  
575 King Street, Suite B  
Charleston, S.C. 29403  
(843) 723-9804  
aderfner@derfneraltman.com

NEIL G. BARON  
LAW OFFICE OF NEIL G. BARON  
914 FM 517 W, Suite 242  
Dickinson, Texas 77539  
(281) 534-2748  
neil@ngbaronlaw.com

DAVID RICHARDS  
RICHARDS, RODRIGUEZ & SKEITH, LLP  
816 Congress Avenue, Suite 1200  
Austin, Texas 78701  
(512) 476-0005

*Counsel for Veasey/LULAC Plaintiffs*

LUIS ROBERTO VERA, JR.  
Law Office of Luis Roberto Vera Jr.  
111 Soledad, Ste 1325  
San Antonio, TX 78205  
210-225-2060  
lrvlaw@sbcglobal.net

*Counsel for LULAC*

/s/ Ezra D. Rosenberg

Jon M. Greenbaum  
Ezra D. Rosenberg  
Robert A. Kengle  
Brendan B. Downes  
LAWYERS' COMMITTEE FOR  
CIVIL RIGHTS UNDER LAW  
1401 New York Avenue, N.W., Suite 400  
Washington, D.C. 20005

Wendy Weiser  
Myrna Perez  
Jennifer Clark  
THE BRENNAN CENTER FOR JUSTICE  
AT NYU LAW SCHOOL  
161 Avenue of the Americas, Floor 12  
New York, New York 10013-1205

Amy L. Rudd  
Lindsey B. Cohan  
DECHERT LLP  
500 W. 6th Street, Suite 2010  
Austin, Texas 78701

Jose Garza  
LAW OFFICE OF JOSE GARZA  
7414 Robin Rest Drive  
San Antonio, Texas 98209

Daniel Gavin Covich  
COVICH LAW FIRM LLC  
Frost Bank Plaza  
802 N Carancahua, Ste 2100  
Corpus Christi, TX 78401

Gary Bledsoe  
POTTER BLEDSOE, L.L.P.  
316 W. 12th Street, Suite 307  
Austin, Texas 78701

Victor Goode  
NAACP  
4805 Mt. Hope Drive  
Baltimore, Maryland 21215



Robert Notzon  
THE LAW OFFICE OF ROBERT NOTZON  
1502 West Avenue  
Austin, Texas 78701

*Counsel for Plaintiffs Texas State Conference of  
NAACP Branches and The Mexican American  
Legislative Caucus of the Texas House of  
Representatives*

/s/ Robert W. Doggett  
Robert W. Doggett  
TEXAS RIOGRANDE LEGAL AID  
4920 N. IH-35  
Austin, Texas 78751

Marinda van Dalen  
TEXAS RIOGRANDE LEGAL AID  
531 East St. Francis St.  
Brownsville, Texas 78529

Jose Garza  
TEXAS RIOGRANDE LEGAL AID  
1111 N. Main Ave.  
San Antonio, Texas 78212

*Counsel for Lenard Taylor, Eulalio Mendez Jr.,  
Lionel Estrada, Estela Garcia Espinoza,  
Margarito Martinez Lara, Maximina Martinez  
Lara, and La Union Del Pueblo Entero, Inc.*

/s/ Rolando L. Rios  
ROLANDO L. RIOS  
SBN: 16935900  
115 E. Travis, Suite 1645  
San Antonio, Texas 78205  
Ph: (210) 222-2102  
Fax: (210) 222-2898  
E-mail: rios@rolandorioslaw.com

*Attorney for Intervenor Texas Association of  
Hispanic County Judges and County  
Commissioners*

/s/ Natasha M. Korgaonkar

Christina A. Swarns  
Natasha M. Korgaonkar  
Leah C. Aden  
Deuel Ross  
NAACP LEGAL DEFENSE  
AND EDUCATION FUND, INC.  
40 Rector Street,  
5th Floor  
New York, NY 10006  
(212) 965-2200  
nkorgaonkar@naacpldf.org

Jonathan Paikin  
Kelly Dunbar  
WILMER CUTLER PICKERING HALE AND DORR LLP  
1875 Pennsylvania Avenue, NW  
Washington, DC 20006  
(202) 663-6000  
kelly.dunbar@wilmerhale.com

*Counsel for the Texas League of Young Voters  
Education Fund and Imani Clark*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 29, 2016, a true and correct copy of the foregoing document was served via the Court's ECF system to all counsel of record.

/s/ Angela V. Colmenero  
ANGELA V. COLMENERO